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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,955	09/26/2003	Eric Ustaris	200209831-1	9436

22879 7590 12/26/2006	EXAMINER
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400	RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
2164	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/26/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-11 and 15-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-11,15-18* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by

Wallach et al. (U.S. Patent 6,292,905).

Claim 1: FIG. 5A illustrates a computing environment having a plurality of servers (54,

56); a file system adapted to store software and data (RAID 80), which are accessible by the file

servers (54, 56); a workstation (66) coupled to the file servers and additionally coupled to a

client (68).

FIG. 5C illustrates a scenario where the server (56) fails. Col. 13, lines 51-55 indicate

that any user using one of the terminals can initiate the recovery process. Accordingly, a user at

the client computer (68) can make the request for the recovery process to be initiated, which

causes the data or programs at file system (80) to be transferred to server (54) (col. 7, lines 55-

60). Once the data and programs are directed to server (54), both the client computer (68) and

workstation (66) become adapted to access/receive/utilize the data from this server (54), because

both are on a LAN link to that functioning server.

Claim 2: The RAID system (80) is a centralized collection of data and software which

constitutes a database.

Claim 3: The file server (56) is a database server and includes a database (col. 4, lines 25-

30).

Claim 4: FIGS. 5A and 5C illustrate a plurality of servers (54, 56) which implement load balancing (FIG. 5C) when one of the servers fail.

Claim 5: Col. 13, lines 36-38 describe the process where a server implements a heartbeat to determine whether other servers have resumed normal operation.

Claim 6: Col. 4, lines 28-30 describe a protocol referred to as "Netware Directory Services" which constitutes a network file system (NFS) protocol. The AFS system, and combination AFS and NFS system are optionally recited, and thus carry no patentable weight.

Claim 7: See remarks for claim 1

Claim 8: As seen in FIG. 5C, when a failure occurs on the server (56), data transfers from (80) to the server (54) where it can then be accessed by both the workstation (66) and client (68). Data and programs permanently stored on the file (80) are not stored on either the workstation (66) or client (68) until such data or programs are transmitted to them through the server (54).

Claim 9: As stated with respect to claim 7, the workstation (54) will inherently include some control files to control its operation. Since the workstation (54) is a server, those control files would necessarily be controlling a server, and thus would constitute server settings.

Claim 10: In FIG. 5A, the interface between the file server (56) and the workstation (54) is the LAN (local area network).

Claim 11: The file system is a RAID (80). The recitation of a SCSI drive is optionally recited and therefore carries no patentable weight.

Claim 15: FIG. 5A illustrates a file server (56) and means for storing client applications and data (RAID 80--a disk system functionally capable of storing data or applications). The

means for retrieving the client applications is the client (68) which is functionally capable of requesting and retrieving data and/or applications and executing applications.

Claim 16: The client computer (68) is functionally capable of retrieving applications at any time so requested by a user and executing applications at any time so requested by a user.

Claim 17: FIG. 5A illustrates a computer (68) which includes a CPU. The computer (68) inherently includes volatile memory, such as RAM or cache memory which communicates with the CPU. The CPU (68) is in communication with an external file system (80) and can retrieve information from external file system (80) and execute applications. The CPU can execute client applications by reason that it is located on a client computer.

Claim 18: See remarks for claim 16.

Remarks

Claim 1: Applicant argues that Wallach does not disclose the workstation coupled to the client computer. This argument is not correct. In view of the amendment, examiner now interprets the workstation as computer (66) and client computer as (68). The two computers are connected together via the LAN connection, as seen in FIG. 5A.

Applicant argues that Wallach lacks the claimed client computer. However, Wallach clearly illustrates a client computer (68).

Applicant argues that Wallach lacks software or data transferred to the from the file system via a server, as requested by the client. This assertion is not correct. Without repeating the discussion associated with claim 1, applicant is directed to the discussion provided at the second paragraph of claim 1 located at the beginning of the office action, which addresses this point.

Applicant further argues that Wallach does not disclose a client adapted to utilize software or data transferred to the workstation. This argument is not correct. IN FIG. 5C, once the server (54) is mapped to receive data and software after a failure, it will receive such data and software from the RAID (80). Once it receives this software or data, both the client computer (68) and workstation (66) can access or receive or use this data since they now have a direct LAN connection to the mapped server (54). Additionally, in such a network architecture, both the client and workstation can receive the same information, thus meeting the requirement for client being adapted to receive the same software or data that is sent to the workstation.

Claim 7: Applicant's arguments primarily repeat those arguments set forth for claim 1. Applicant additionally argues that the workstation stores control files permanently, but not client applications. However, the workstation has been identified as computer (66). This computer inherently stores control files, as does any operational computer. It does not previously store any information that otherwise has to be retrieved from the RAID (80).

Claim 15: Applicant argues that Wallach lacks any means to execute client applications. This argument is not correct. Wallach illustrates a client computer (68) which can execute client applications. There is no factual or logical basis for assuming that a client computer can never execute client applications.

Claim 17: Applicant argues that the CPU of Wallach cannot request a client application on behalf of client and execute a client application on behalf of a client. These assertions are not correct. The CPU in question is the CPU located within a client computer. A CPU within a client necessarily processes any requests sent out to external computers and necessarily processes any

returned information. Both actions are performed on behalf of the client computer in which the

CPU is contained.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at

telephone number (571) 272-4084.

Sam Rimell
Primary Examiner
Art Unit 2164